



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF OCTOBER 8, 2001

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#01-126 People v. Superior Court (Jimenez), S099542. (B148656; 90 Cal.App.4th 267). Petition for review after the Court of Appeal granted a petition for a peremptory writ of mandate. This case includes the issue of whether, when the prosecution refiles criminal charges following the grant of a motion to suppress evidence and the dismissal of the initial charges, the right of the prosecution to exercise a peremptory challenge to a judge or magistrate under Code of Civil Procedure section 170.6 is limited by Penal Code section 1538.5, subdivision (p), which provides that relitigation of the motion to suppress evidence “shall be heard by the same judge who granted the motion at the first hearing if the judge is available.”

#01-127 Wittkopf v. County of Los Angeles, S100231. (B139304; 90 Cal.App.4th 1205.) Petition for review after the Court of Appeal reversed a summary judgment in a civil action. This case presents issues concerning (1) whether the Fair Employment and Housing Act (Gov. Code, § 12940 et seq.), prior to the enactment of Government Code section 12926.1 and the amendment of Government Code section 12926, subdivision (k) by the Prudence Kay Poppink Act (stats. 2000, ch. 1049), required that a plaintiff who alleges that he or she was discriminated against on the basis of

(over)

disability prove that his or her disability *substantially* limited a major life activity; and (2) whether the 2000 legislation, which explicitly provides that a substantial limitation is *not* required, should be applied retroactively if it represents a change in the law rather than a clarification of the preexisting law. These issues are related to issues before the court in Colmenares v. Braemar Country Club, Inc., S098895 (#01-103).

01-128 Zamora v. Clayborn Contracting Group, Inc., S100352. (F035221; 90 Cal.App.4th 1088.) Petition for review after the Court of Appeal affirmed an order granting a motion to vacate judgment in a civil action. This case concerns whether a judgment that is entered after the acceptance of an offer to compromise under Code of Civil Procedure section 998 can be vacated under Code of Civil Procedure section 473 on the basis of an asserted clerical error in the offer to compromise.

#01-129 In re Zeth S., S099557. (G027568; 90 Cal.App.4th 107.) Petition for review after the Court of Appeal reversed a judgment terminating parental rights. This case presents issues concerning the circumstances under which an appellate court may or should properly consider alleged post-judgment developments in deciding an appeal of a judgment terminating parental rights.

#01-130 People v. Hardiman, S099287. (B146045; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Moss, S087478 (#00-79), which concerns whether a peace officer who searches a probationer subject to a search condition violates the Fourth Amendment rights of that individual if the officer is ignorant of the condition.

#01-131 People v. Lambert, S099791. (D035434; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Sparks, S098290 (#01-97), which concerns whether burglary can be committed by entry with felonious intent into a room within a single-family residence if the felonious intent was formed after entry into the residence, and whether the trial court properly so instructed.

#01-132 Reynolds v. Philip Morris, S099989. (B141850; unpublished opinion.) Petition for review after the Court of Appeal reversed the judgment in a civil action.

The court order briefing deferred pending decision in Myers v. Phillip Morris Companies, Inc., S095213 (#01-29), which concerns whether the amendments to Civil Code section 1714.45 that became effective on January 1, 1998, apply to a claim that accrued after January 1, 1998, but which is based on conduct that occurred prior to January 1, 1998.

#01-133 People v. Zangari, S099489. (A091689; 89 Cal.App.4th 1436.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Avery, S092426 (#01-02), which concerns whether the intent to take property temporarily, but for so extended a period of time as to deprive the owner of a major portion of its value or enjoyment, satisfies the intent requirement of theft under California law.

DISPOSITION

#00-113 Griffith v. County of Santa Cruz, S090107, was transferred to the Court of Appeal for reconsideration in light of Howard Jarvis Taxpayers Assn. v. City of La Habra, 25 Cal.4th 809.

The following cases were dismissed and remanded to the Court of Appeal:

#99-130 In re William M., S079574.

#00-158 People v. Scrofani, S092299.

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